

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Lumenier Holdco LLC	)	File No.: EB-SED-17-00023764
f/k/a FPV Manuals LLC	)	Acct. No.: 201832100003
	)	FRN: 0027053776

**ORDER**

**Adopted: December 18, 2017**

**Released: December 19, 2017**

By the Acting Deputy Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) has entered into a Consent Decree to resolve its investigation into whether Lumenier Holdco LLC f/k/a FPV Manuals LLC (Lumenier or Company) advertised and sold noncompliant audio/visual transmitters (AV transmitters) intended for use with remotely piloted aircraft (drones) on its various websites in violation of the Commission's equipment marketing and amateur radio operator rules.<sup>1</sup> These laws ensure that radio frequency devices comply with the Commission's technical requirements and do not interfere with authorized communications. The noncompliant AV transmitters could operate in bands that are reserved for Federal government and other important operations, including Federal Aviation Administration airport operations and satellite communications. Some of the AV transmitters also operated at power levels that exceeded limits set by the Commission's rules. Accordingly, these AV transmitters must not be marketed and should not be operated by anyone. Moreover, entities that rely on amateur frequencies in operating compliant AV transmitters must have an amateur license and otherwise comply with all applicable laws for such operation.<sup>2</sup> Failure to do so could result in enforcement actions. To settle this matter, Lumenier admits that it marketed the noncompliant AV transmitters, will implement a compliance plan, and will pay a \$180,000 civil penalty.

2. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the referenced investigation regarding Lumenier's compliance with Section 302(b) of the Communications Act of 1934, as amended (Act), and Parts 2, 15, and 97 of the Commission's rules.<sup>3</sup>

3. In the absence of material new evidence relating to this matter, we do not set for hearing the question of Lumenier's basic qualifications to hold or obtain any Commission license or authorization.<sup>4</sup>

4. Accordingly, **IT IS ORDERED** that, pursuant to Section 4(i) of the Act<sup>5</sup> and the authority delegated by Sections 0.111 and 0.311 of the Rules,<sup>6</sup> the attached Consent Decree **IS ADOPTED** and its terms incorporated by reference.

<sup>1</sup> Lumenier is the successor to FPV Holdings LLC, which was also known as FPV Manuals LLC.

<sup>2</sup> See e.g., 47 CFR § 97.215.

<sup>3</sup> 47 U.S.C. § 302a(b); 47 CFR §§ 2.803, 2.925, 15.5, 15.19, 15.21, 15.201, 15.205, 15.247, 97.215(c).

<sup>4</sup> See 47 CFR § 1.93(b).

<sup>5</sup> 47 U.S.C. § 154(i).

<sup>6</sup> 47 CFR §§ 0.111, 0.311.

5. **IT IS FURTHER ORDERED** that the above-captioned matter **IS TERMINATED**.
6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Nancy J. Victory, Esq., DLA Piper LLP (US), 500 Eighth Street, NW, Washington, DC, 20004.

FEDERAL COMMUNICATIONS COMMISSION

Christopher L. Killion  
Acting Deputy Chief  
Enforcement Bureau

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
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Lumenier Holdco LLC	)	File No.: EB-SED-17-00023764
f/k/a FPV Manuals LLC	)	Acct. No.: 201832100003
	)	FRN: 0027053776

**CONSENT DECREE**

1. The Enforcement Bureau of the Federal Communications Commission and Lumenier Holdco LLC f/k/a FPV Manuals LLC, by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation into whether Lumenier violated Section 302(b) of the Communications Act of 1934, as amended (Act), and Parts 2, 15, and 97 of the Commission's rules<sup>1</sup> in connection with the Company's marketing of radio frequency devices.

**I. DEFINITIONS**

2. For the purposes of this Consent Decree, the following definitions shall apply:
- (a) "Act" means the Communications Act of 1934, as amended.<sup>2</sup>
  - (b) "Adopting Order" means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
  - (c) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
  - (d) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.
  - (e) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Lumenier is subject by virtue of its business activities, including but not limited to the Equipment Authorization and Marketing Rules.
  - (f) "Compliance Plan" means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 13.
  - (g) "Covered Employees" means all employees and agents of Lumenier who perform, or supervise, oversee, or manage the performance of, duties that relate to Lumenier's responsibilities under the Communications Laws, including the Equipment Authorization and Marketing Rules.
  - (h) "Effective Date" means the date by which both the Bureau and Lumenier have signed the Consent Decree.
  - (i) "Equipment Authorization and Marketing Rules" means Section 302(b) the Act;<sup>3</sup> Sections 2.803, 15.201, 15.205 of the Commission's rules;<sup>4</sup> and other provisions of

<sup>1</sup> 47 U.S.C. § 302a(b); 47 CFR §§ 2.803, 2.925, 15.5, 15.19, 15.21, 15.201, 15.205, 15.247, 97.215(c).

<sup>2</sup> 47 U.S.C. § 151 *et seq.*

<sup>3</sup> 47 U.S.C. § 302a(b).

<sup>4</sup> 47 CFR §§ 2.803, 15.201, 15.205.

the Act, the Rules, and Commission orders related to the authorization of radio frequency devices and the marketing of such devices.

- (j) “Investigation” means the investigation commenced by the Bureau’s April 17, 2017 Letter of Inquiry regarding whether the marketing of certain radio frequency devices by Lumenier complied with the Equipment Authorization and Marketing Rules.<sup>5</sup>
- (k) “Lumenier” or “Company” means Lumenier Holdco LLC and its affiliates, subsidiaries, predecessors-in-interest, including FPV Manuals LLC, and successors-in-interest.<sup>6</sup>
- (l) “Operating Procedures” means the internal operating procedures and compliance policies established by Lumenier to implement the Compliance Plan.
- (m) “Parties” means Lumenier and the Bureau, each of which is a “Party.”
- (n) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

## II. BACKGROUND

3. Section 302 of the Act authorizes the Commission to promulgate reasonable regulations to minimize harmful interference by equipment that emits radio frequency energy.<sup>7</sup> Specifically, Section 302(b) of the Act provides that “[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section.”<sup>8</sup> The purpose of Section 302 of the Act is to ensure that radio transmitters and other electronic devices meet certain standards to control interference before they reach the market.

4. The Commission carries out its responsibilities under Section 302 of the Act in two ways. First, the Commission establishes technical requirements for transmitters and other equipment to minimize their potential for causing interference to authorized radio services. Second, the Commission administers an equipment authorization program to ensure that equipment reaching the market in the United States complies with the technical and administrative requirements set forth in the Rules. The equipment authorization program requires, among other things, that radio frequency devices must be tested for compliance with the applicable technical requirements prior to marketing.<sup>9</sup> In that regard, Section 2.803(b) of the Rules prohibits the marketing of radio frequency devices unless the device has first been properly authorized, identified, and labeled in accordance with the Rules, with limited exceptions.<sup>10</sup> The Commission has generally not required amateur equipment to be certified if it operates solely in the amateur frequencies; however, certification is required if a device can operate outside of the authorized amateur radio service bands.<sup>11</sup>

<sup>5</sup> See Letter from Aspasia A. Paroutsas, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Tim Nilson, Founder and President, FPV Manuals LLC (Apr. 17, 2017) (LOI) (on file in EB-SED-17-00023764).

<sup>6</sup> Lumenier is the successor to FPV Holdings LLC, which was also known as FPV Manuals LLC.

<sup>7</sup> 47 U.S.C. § 302a.

<sup>8</sup> *Id.* § 302a(b).

<sup>9</sup> The term “marketing” is defined in the Rules and includes the “sale or lease, or offering for sale or lease, including advertising for sale or lease, or importation, shipment, or distribution for the purpose of selling or leasing or offering for sale or lease.” 47 CFR § 2.803(a).

<sup>10</sup> See *id.* §§ 2.803(b), (c).

<sup>11</sup> *New Generation Hobbies*, Citation, 26 FCC Rcd 9468, 9471 n.23 (EB 2011) (“while amateur radio service equipment is exempt from the FCC’s equipment certification requirement, it is a violation of the Commission’s regulations to market in the United States a transmitter that is designed or intended to operate on frequencies outside (continued....)”).

5. Lumenier is a privately-held limited liability company that, through various websites, advertises and sells fully assembled remotely piloted aircraft (drones), as well as various parts and accessories to the hobbyist community for use in various applications, including drone racing. On April 17, 2017, after reviewing complaints, the Bureau's Spectrum Enforcement Division issued a Letter of Inquiry (LOI) to Lumenier, directing it to submit a sworn written response to a series of questions relating to its marketing of audio/visual transmitters (AV transmitters) in the United States.<sup>12</sup> The investigation revealed that some of the AV transmitters marketed by Lumenier were capable of being operated outside of the authorized amateur radio service bands, including on frequencies reserved in whole or in part for Federal agencies, but were not certified or otherwise compliant with the Rules.<sup>13</sup> These AV transmitters are considered intentional radiators and must comply with the Commission's Equipment Authorization and Marketing Rules.<sup>14</sup> Additionally, some of the AV transmitters exceeded the authorized power limit for amateur operation of model craft.<sup>15</sup> After receiving the LOI, Lumenier stopped marketing the noncompliant AV transmitters.<sup>16</sup>

6. The Bureau and Lumenier negotiated the following terms and conditions of settlement and hereby enter into this Consent Decree as provided herein.

### III. TERMS OF AGREEMENT

7. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order.

8. **Jurisdiction.** Lumenier agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

9. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission.

10. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, Lumenier agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date,

(Continued from previous page) \_\_\_\_\_

of the authorized amateur radio service bands if such equipment has not been issued a grant of equipment certification"); *Pilot Travel Centers, LLC*, Notice of Apparent Liability, 19 FCC Rcd 23113, 23114 (2004) ("[R]adio transmitting equipment that transmits *solely* on Amateur Radio Service ('ARS') frequencies is not subject to equipment authorization requirements prior to manufacture or marketing.") (emphasis added).

<sup>12</sup> See *supra* note 5.

<sup>13</sup> Certification of Tim Nilson, Founder and President, FPV Manuals, LLC (May 17, 2017); Letter and attachment from Nancy J. Victory, DLA Piper LLP (US), to Marlene H. Dortch, Secretary, Federal Communications Commission, Attn: Jennifer Burton, Spectrum Enforcement Division, FCC Enforcement Bureau (May 17, 2017) (collectively LOI Response) (on file in EB-SED-17-00023764); Letter and attachment from Nancy J. Victory, DLA Piper LLP (US), to Marlene H. Dortch, Secretary, Federal Communications Commission, Attn: Jennifer Burton, Spectrum Enforcement Division, FCC Enforcement Bureau (July 18, 2017) (Second LOI Response) (on file in EB-SED-17-00023764).

<sup>14</sup> 47 CFR §§ 2.803, 15.201. Various models of the AV transmitters marketed by Lumenier could operate on frequencies 1010, 1040, 1080, 1120, 1160, 1200, 1320, 1360, 2370, 2470, 2490, 2510, 5645, and/or 5945 MHz, all of which are outside of the authorized amateur radio service bands. See Second LOI Response attachment; see also 47 CFR § 97.301(a) (listing amateur frequencies).

<sup>15</sup> *Id.* § 97.215(c) (limiting transmitter power to 1 W).

<sup>16</sup> LOI Response at 8.

or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Lumenier concerning the matters that were the subject of the Investigation. The Bureau also agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or to set for hearing the question of Lumenier's basic qualifications to be a Commission licensee or hold Commission licenses or authorizations.<sup>17</sup>

11. **Admission of Liability.** Lumenier admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 10, herein, that its actions described in paragraph 5, herein, violated the Equipment Authorization and Marketing Rules.

12. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, Lumenier shall designate a senior corporate officer or principal with the requisite corporate and organizational authority to serve as a Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that Lumenier complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his or her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Equipment Authorization and Marketing Rules prior to assuming his or her duties.

13. **Compliance Plan.** For purposes of settling the matters set forth herein, Lumenier agrees that it shall, within sixty (60) calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree. With respect to the Equipment Authorization and Marketing Rules, Lumenier will implement, at a minimum, the following procedures:

- (a) **Operating Procedures.** Within sixty (60) calendar days after the Effective Date, Lumenier shall establish Operating Procedures that all Covered Employees must follow to help ensure Lumenier's compliance with the Equipment Authorization and Marketing Rules. Lumenier's Operating Procedures shall include internal procedures and policies specifically designed to ensure that, prior to the initiation of marketing radio frequency devices, all radio frequency devices to be marketed by Lumenier are properly authorized and compliant with the applicable technical and administrative standards and requirements.<sup>18</sup>
- (b) **Compliance Manual.** Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees. The Compliance Manual shall explain the Equipment Authorization and Marketing Rules and set forth the Operating Procedures that Covered Employees shall follow to help ensure Lumenier's compliance with those Rules. Lumenier shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. Lumenier shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (c) **Compliance Training Program.** Lumenier shall establish and implement a Compliance Training Program to ensure compliance with the Equipment Authorization and Marketing Rules and the Operating Procedures. As part of the

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<sup>17</sup> See 47 CFR § 1.93(b).

<sup>18</sup> See *supra* note 9 and accompanying text.

Compliance Training Program, Covered Employees shall be advised of Lumenier's obligation to report any noncompliance with the Equipment Authorization and Marketing Rules under paragraph 14 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within sixty (60) calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after the initial Compliance Training Program shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. Lumenier shall repeat compliance training on an annual basis, and shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

14. **Reporting Noncompliance.** Lumenier shall report any noncompliance with the Equipment Authorization and Marketing Rules and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include an explanation of: (i) each instance of noncompliance; (ii) the steps that Lumenier has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that Lumenier has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to Aspasia A. Paroutsas, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Rm. 3-C366, Washington, DC 20554, with copies submitted electronically to Jason Koslofsky at Jason.Koslofsky@fcc.gov and to Ricardo Durham at Ricardo.Durham@fcc.gov.

15. **Compliance Reports.** Lumenier shall file compliance reports with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, and thirty-six (36) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of Lumenier's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Equipment Authorization and Marketing Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Lumenier, stating that the Compliance Officer has personal knowledge that Lumenier: (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 14 of this Consent Decree.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining that his/her personal knowledge is the basis for such certification and shall comply with Section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.<sup>19</sup>
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Lumenier, shall provide the Commission with an explanation of the reason(s) why and describe: (i) each instance of noncompliance; (ii) the steps that Lumenier has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that Lumenier has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.

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<sup>19</sup> 47 CFR § 1.16.

- (d) All Compliance Reports shall be submitted to Aspasia A. Paroutsas, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Rm. 3-C366, Washington, DC 20554, with copies submitted electronically to Jason Koslofsky at [Jason.Koslofsky@fcc.gov](mailto:Jason.Koslofsky@fcc.gov) and to Ricardo Durham at [Ricardo.Durham@fcc.gov](mailto:Ricardo.Durham@fcc.gov).

16. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 12 through 15 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

17. **Civil Penalty.** Lumenier will pay a civil penalty to the United States Treasury in the amount of one hundred and eighty thousand dollars (\$180,000). Such payment shall be made in three installments (each an Installment Payment). The first Installment Payment in the amount of sixty thousand dollars (\$60,000) is due within thirty (30) calendar days of the Effective Date. The second Installment Payment in the amount of sixty thousand dollars (\$60,000) shall be paid within six (6) months of the Effective Date. The third and final Installment Payment in the amount of sixty thousand dollars (\$60,000) shall be paid within twelve (12) months of the Effective Date. Lumenier acknowledges and agrees that upon execution of this Consent Decree, the civil penalty and each Installment Payment shall become a “Claim” or “Debt” as defined in 31 U.S.C. § 3701(b)(1).<sup>20</sup> Upon an Event of Default (as defined below), all procedures for collection as permitted by law may, at the Commission’s discretion, be initiated. Lumenier shall send electronic notification of payment to Jason Koslofsky at [Jason.Koslofsky@fcc.gov](mailto:Jason.Koslofsky@fcc.gov), Ricardo Durham at [Ricardo.Durham@fcc.gov](mailto:Ricardo.Durham@fcc.gov), and Samantha Peoples at [Samantha.Peoples@fcc.gov](mailto:Samantha.Peoples@fcc.gov) on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.<sup>21</sup> When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters “FORF” in block number 24A (payment type code). Below are additional instructions that should be followed based on the form of payment selected:

- Payment by check or money order must be made payable to the Federal Communications Commission. Such payments (along with the completed FCC Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed FCC Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the form to authorize the credit card payment. The completed FCC Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

Questions regarding payment procedures should be addressed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

<sup>20</sup> Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

<sup>21</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

18. **Event of Default.** Lumenier agrees that an Event of Default shall occur upon the failure by Lumenier to pay the full amount of any Installment Payment on or before the due date specified in this Consent Decree.

19. **Interest, Charges for Collection, and Acceleration of Maturity Date.** After an Event of Default has occurred under this Consent Decree, the then unpaid amount of the civil penalty shall accrue interest, computed using the U.S. Prime Rate in effect on the date of the Event of Default plus 4.75 percent, from the date of the Event of Default until payment in full. Upon an Event of Default, the then unpaid amount of the civil penalty, together with interest, any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charges, plus the costs of collection, litigation, and attorneys' fees, shall become immediately due and payable, without notice, presentment, demand, protest, or notice of protest of any kind, all of which are waived by Lumenier.

20. **Waivers.** As of the Effective Date, Lumenier waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order. Lumenier shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or the Adopting Order, neither Lumenier nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Lumenier shall waive any statutory right to a trial *de novo*. Lumenier hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act<sup>22</sup> relating to the matters addressed in this Consent Decree.

21. **Severability.** The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

22. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

23. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or Order adopted by the Commission (except an Order specifically intended to revise the terms of this Consent Decree to which Lumenier does not expressly consent) that provision will be superseded by such Rule or Order.

24. **Successors and Assigns.** Lumenier agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

25. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

26. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

27. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

28. **Authorized Representative.** Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

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<sup>22</sup> See 5 U.S.C. § 504; 47 CFR §§ 1.1501-1.1530.

29. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

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Christopher L. Killion  
Acting Deputy Chief  
Enforcement Bureau

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Date

\_\_\_\_\_  
Tim Nilson  
Chief Executive Officer  
Lumenier Holdco LLC

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Date